

**IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
1:11 CR 60-2**

UNITED STATES OF AMERICA,

Vs.

BOBBY DEWAYNE SHELTON.

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ORDER

THIS CAUSE came on before the undersigned at the close of a Rule 11 proceeding that was held before this court on December 13, 2011. At that proceeding, defendant entered a plea of guilty to knowingly receiving, possessing, transferring, or making a firearm that was not registered to the defendant in the National Firearms Registration and transfer Record. At the close of the Rule 11 proceeding, the court presented the issue as to whether or not the defendant should now be detained, pursuant to 18 U.S.C. § 3143(a)(2). The government contended that defendant should be detained. Defendant, through his counsel, contended that the offense to which defendant had entered a plea of guilty was not one of those offenses described under 18 U.S.C. § 3143(a)(2). Neither the government nor defendant had presented to the court any research that had been done in regard to this issue. As a result, the undersigned determined to enter an order allowing the government to file a brief on or before December 28, 2011 which presents any authority that the government might have to show that the offense to which defendant had entered a plea of guilty is one

of those that falls within the description of offenses as set forth under 18 U.S.C. § 3143(a)(2). Counsel for defendant will then be allowed up to and including January 11, 2012 to file a responsive brief and the court will set a hearing for arguments for January 18, 2012.

ORDER

IT IS, THEREFORE, ORDERED, that the government will have up to and including **December 28, 2011** to file a brief and supporting authority as to whether or not the offense to which defendant had entered a plea of guilty falls within the description of offenses as set forth under 18 U.S.C. § 3143(a)(2). Counsel for defendant will be allowed up to and including **January 11, 2012** to file a responsive brief. The undersigned will be set for hearing concerning the issue for **January 18, 2012 at 9:30 a.m.** in Courtroom #2 of the United States Courthouse in Asheville, North Carolina. Should the government not file a brief by **December 28, 2011**, then the hearing will be cancelled. It is further **ORDERED** defendant will be allowed to remain on terms and conditions of pretrial release, pursuant to the provisions of 18 U.S.C. § 3143(a)(1) pending the above referenced hearing.

Signed: December 20, 2011

Dennis L. Howell

Dennis L. Howell
United States Magistrate Judge

